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STATE OF WISCONSIN
BEFORE THE ARBITRATOR

AUG 25 1982

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

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In the Matter of the :
Stipulation of :
PHELPS TEACHERS ASSOCIATION :
and :
SCHOOL DISTRICT OF PHELPS :
To Initiate Mediation-Arbitration :
Between Said Parties :
- - - - - x

Case III
No. 29020 MED/ARB-1484
Decision No. 19396-A

APPEARANCES

Gene L. Saucke, District Administrator, on behalf of the District

Gene Degner, Director, WEAC UniServ Council No. 18, on behalf of the Association

On March 15, 1982 the Wisconsin Employment Relations Commission appointed the undersigned as Mediator-Arbitrator, pursuant to Section 111.70(4)(cm) 6.b of the Municipal Employment Relations Act in the matter of a dispute existing between the School District of Phelps, hereafter the District or Board, and the Phelps Teachers Association, hereafter the Association. Pursuant to statutory responsibilities, the undersigned conducted mediation proceedings between the District and the Association on May 13, 1982. Said mediation effort failed to result in voluntary resolution of the dispute. The matter was thereafter presented to the undersigned in an arbitration hearing conducted on the same date for final and binding determination. Post hearing exhibits and briefs were filed by both parties by June 7, 1982. Based upon a review of the evidence and arguments and utilizing the criteria set forth in Section 111.70(4)(cm), Wis. Stats., the undersigned renders the following award.

The substantive issues in dispute include the 1981-82 salary schedule, insurance, extra curricular pay, and fair share. In addition, although the District has taken no position on what constitutes comparable districts, a determination must be made with respect to said issue since the definition of comparables districts has an impact on the outcome of several of the disputed issues. Therefore, the undersigned will first discuss comparability; thereafter, each of the aforementioned issues; and finally, the relative merit of the parties' total final offers.

Comparability

The Association proposes as a primary set of comparables the districts in the Northern Lakes Conference. As a secondary set of comparables it proposes the CESA #2 school district. Lastly, it proposes utilizing statewide salary averages.

Discussion

The undersigned has selected as comparable districts those districts in the athletic conference and the CESA district in which the District is a member which had student populations of less than 500.

1981-82 Student Enrollment

FTEs 1981-82

Phelps	170	18.00
Elcho	499	34.75
Flambeau #1	336	21.80
Mercer	227	21.00
North Lakeland	232	15.10
Arbor Vitae	385	25.00
Goodman	252	20.50
Laona	412	33.00
Pembin	309	20.80
White Lake	332	25.50

These districts are of relative similar size and are geographically proximate. No evidence has been introduced regarding their relative ability to support their school district programs, and therefore, such considerations could not be utilized herein.

Salary Schedule

Association Final Offer
1981-82 Salary Schedule

<u>Step</u>	<u>BA</u>	<u>BA+15</u>	<u>MA</u>	<u>MA+15</u>
0	11,500	11,995	12,490	12,985
1	11,965	12,465	12,970	13,470
2	12,430	12,935	13,450	13,955
3	12,895	13,405	13,930	14,440
4	13,360	13,875	14,410	14,925
5	13,825	14,345	14,890	15,410
6	14,290	14,815	15,370	15,895
7	14,755	15,285	15,850	16,380
8	15,220	15,755	16,330	16,865
9	15,685	16,225	16,810	17,350
10	16,150	16,695	17,290	17,835
11	16,615	17,175	17,770	18,320
12	17,080	17,635	18,250	18,805
13		18,105	18,730	19,290
14			19,210	19,775
15				20,260

Board Final Offer
1981-82 Salary Schedule

<u>Step</u>	<u>BA</u>	<u>BA+15</u>	<u>MA</u>	<u>MA+15</u>
0	11,300	11,450	12,200	12,650
1	11,725	11,880	12,635	13,090
2	12,150	12,310	13,070	13,530
3	12,575	12,740	13,505	13,970
4	13,000	13,170	13,940	14,410
5	13,425	13,600	14,375	14,850
6	13,850	14,030	14,810	15,290
7	14,275	14,460	15,245	15,730
8	14,700	14,890	15,680	16,170
9	15,125	15,320	16,115	16,610
10	15,550	15,750	16,550	17,050
11	15,975	16,180	16,985	17,490
12	16,400	16,610	17,420	17,930
13		17,040	17,855	18,370
14			18,290	18,810
15				19,250

District Position

The District reduced one bus route for the 1981-82 school year in order to attempt to reduce transportation costs.

In addition, the science room needs completion and the school gymnasium needs to be insulated.

The school boiler broken down and needs to be repaired, as does the roof of the building.

The District has two ten-year-old buses, one of which will have to be replaced.

The District receives no general state school aid. The Township of Phelps has the highest tax rate in Vilas County, with average weekly wages of \$156.88. Unemployment for Vilas County as of April 1982 was 14.4%. The District has seventy-four students, or 71.1% of its students on free and reduced lunches.

The teachers seek an increase of 13.18%, while the Board has offered 8.35%. With all of the District's unmet needs, high unemployment, a low rate of inflation, low income, and poor economic conditions in the area, the District's proposal should be deemed more than adequate.

Association Position

The Association's proposal is preferable because it puts the money where it is needed and its raises are in line with comparable schools.

The Board, during the hearing, argued not so much an inability to pay, but rather a lack of willingness to pay comparable rates.

The District indicated that it had already taken steps to save \$6,000 next year by the elimination of one bus and cutting a part-time kitchen position. Other issues raised, such as playing basketball games on the same night, the incomplete science room and gymnasium, the need for boiler and roof repairs are all items that can appropriately be placed in next year's budget. It is important to note that these expenses are not reflected in the 1981-82 school budget.

The District has had no problem borrowing money on a short-term basis. There is also no evidence that taxpayers in the District have been unwilling to fund the costs of operating the District.

Thus, there is no tangible or demonstrated evidence of the District's inability to meet the payment of either final offer.

Discussion

The undersigned has utilized seven salary benchmarks to compare the parties' salary proposals. The charts that follow reflect these comparisons

BA Base

	80-81 \$	81-82 \$	% Increase	\$ Increase
Elcho	10,500	11,200	6.7	700
Flambeau #1	10,900	11,850	8.7	950
Mercer	10,832	11,969	10.5	1,137
North Lakeland	11,818	13,073	10.6	1,255
Arbor Vitae	11,100	12,000	8.1	900
Goodman	10,390	10,600	2.	210
Laona	10,470	10,860	3.7	390
Pembine	10,442	11,413	9.3	971
White Lake	10,109	11,063	9.4	954
Average	10,729	11,559	7.7	830
Phelps	10,500	Bd. 11,300	7.6	800
		Assn 11,500	9.5	1,000
+/- Average	- 229	Bd. - 259	- .1	- 30
		Assn - 59	1.8	170
Rank among 10	5/6	Bd. 6		
		Assn 5		

BA 7th Step

	80-81 \$	81-82 \$	% Increase	\$ Increase
Elcho	13,080	14,260	9.0	1,180
Flambeau #1	13,516	14,694	8.7	1,178
Mercer	14,364	14,767	9.8	1,403
North Lakeland	15,270	16,629	8.9	1,359
Arbor Vitae	13,764	14,880	8.1	1,116
Goodman	12,884	14,002	8.7	1,118
Laona	13,234	13,923	5.2	689
Pembine	13,664	14,935	9.3	1,271
White Lake	13,142	14,382	9.4	1,240
Average	13,658	14,719	8.6	1,173
Phelps	13,050	Bd. 13,850 Assn 14,290	5.8 8.7	800 1,240
+/- Average	- 608	Bd. - 869 Assn - 429	-2.8 .1	- 373 67
Rank among 10	10	Bd. 10 Assn 7		

BA Maximum

	80-81 \$	81-82 \$	%Increase	\$ Increase
Elcho	16,090	17,320	7.6	1,230
Flambeau #1	17,440	18,960	8.7	1,520
Mercer	15,896	17,565	7.7	1,230
North Lakeland	20,010	21,369	6.8	1,359
Arbor Vitae	15,984	17,280	8.1	1,296
Goodman	15,377	16,837	9.5	1,460
Laona	15,998	16,985	6.2	987
Pembine	16,886	18,456	9.3	1,570
White Lake	16,174	17,701	9.4	1,527
Average	16,651	18,053	8.1	1,353
Phelps	15,600	Bd. 16,400 Assn 17,080	5.1 9.5	800 1,480
+/- Average	-1,051	Bd. -1,653 Assn - 973	-3. 1.4	- 553 127
Rank among 10	9	Bd. 10 Assn 8		

MA Minimum

	<u>80-81</u> <u>\$</u>	<u>81-82</u> <u>\$</u>	<u>% Increase</u>	<u>\$ Increase</u>
Elcho	11,825	12,800	8.2	975
Flambeau #1	12,862	13,986	8.7	1,124
Mercer	11,882	13,130	10.5	1,248
North Lakeland	14,729	16,088	9.2	1,359
Arbor Vitae	13,320	14,400	8.1	1,080
Goodman	11,140	11,095	0.	- 45
Laona	11,580	12,135	4.8	555
Pembine	11,782	12,878	9.3	1,096
White Lake	11,627	12,725	9.4	1,098
Average	12,305	13,249	7.6	943
Phelps	11,400	Bd. 12,200 Assn 12,490	7 9.6	800 1,090
+/- Average	- 905	Bd. -1,049 Assn - 759	- .6 2	- 143 147
Rank among 10	9	Bd. 9 Assn 9		

MA 10th Step

	<u>80-81</u> <u>\$</u>	<u>81-82</u> <u>\$</u>	<u>% Increase</u>	<u>\$ Increase</u>
Elcho	15,875	17,570	10.7	1,695
Flambeau #1	16,786	18,252	8.7	1,466
Mercer	16,112	17,804	10.5	1,692
North Lakeland	19,386	20,745	7.0	1,359
Arbor Vitae	17,316	18,720	8.1	1,404
Goodman	15,150	16,436	8.5	1,286
Laona	15,726	17,268	9.8	1,542
Pembine	16,714	18,268	9.3	1,554
White Lake	16,176	17,703	9.4	1,527
Average	16,582	18,085	9.1	1,502
Phelps	15,315	Bd. 16,115 Assn 16,810	5.2 9.8	800 1,495
+/- Average	-1,267	Bd. -1,970 Assn -1,275	-3.9 .7	- 702 7
Rank among 10	9	Bd. 10 Assn 9		

MA Maximum

	<u>80-81</u> \$		<u>81-82</u> \$	<u>% Increase</u>	<u>\$ Increase</u>
Elcho	17,675		19,160	8.4	1,485
Flambeau #1	21,146		22,992	8.7	1,846
Mercer	17,522		19,362	10.5	1,840
North Lakeland	22,767		24,126	6.	1,359
Arbor Vitae	20,424		22,080	8.1	1,656
Goodman	16,487		17,263	4.7	776
Laona	17,108		18,979	10.9	1,871
Pembin	18,358		20,065	9.3	1,707
White Lake	17,692		19,363	9.4	1,671
Average	18,798		20,377	8.4	1,579
Phelps	17,490	Bd.	18,290	4.4	800
		Assn	19,210	9.	1,720
+/- Average	-1,308	Bd.	-2,087	-4.	- 779
		Assn	-1,167	.6	141
Rank among 10	8	Bd.	10		
		Assn	7		

Schedule Maximum

	<u>80-81</u> \$		<u>81-82</u> \$	<u>% Increase</u>	<u>\$ Increase</u>
Elcho	18,075		19,460	7.7	1,385
Flambeau #1	21,800		23,704	8.7	1,904
Merber	17,522		19,362	10.5	1,840
North Lakeland	25,974		27,333	5.2	1,359
Arbor Vitae	20,424		22,080	8.1	1,656
Goodman	16,487		17,785	7.9	1,298
Laona	18,249		20,060	9.9	1,811
Pembin	19,918		21,770	9.3	1,852
White Lake	18,198		19,917	9.4	1,719
Average	19,627		21,275	8.5	1,647
Phelps	18,450	Bd.	19,250	4.3	800
		Assn	20,260	9.8	1,810
+/- Average	-1,177	Bd.	-2,025	-4.2	- 847
		Assn	-1,015	1.3	163
Rank among 10	5	Bd.	9		
		Assn	5		

At the BA base, the District's proposal is the more comparable of the two in that the size of its proposed increase is closer to the comparable average, both in dollars and percentages, than is the Association's, and there is no evidence that the District's salary at this point needs adjustment based upon comparability.

At the BA 7th step and BA maximum, the Association's proposal is the more comparable of the two based upon the size of the proposed increase, both in terms of dollars and percentages, and also on the basis of the relationship between the proposed actual salaries at these benchmarks and the salaries at these benchmarks in comparable districts.

At the MA minimum the District's proposal is more comparable based upon the size of the proposed increase, while the Association's proposal is more comparable based upon a comparison of actual salaries. In view of the fact that the District's salary at this benchmark is significantly below the comparable district average and the salaries at the benchmark in the majority of the comparable districts, the undersigned concludes, based upon comparability, that some catchup is justifiable. Therefore,

based upon this premise, the Association's proposal at this benchmark is deemed to be the more reasonable of the two based upon comparability.

At the MA 10th step, MA maximum, and Schedule maximum the Association's proposals are clearly the more comparable of the two based upon the size or amount of the proposed increases as well as a comparison of actual salaries.

Based upon all of the foregoing it becomes obvious that the Association's salary proposal is significantly more comparable than is the District's. Accordingly, based upon comparability, the Association's salary proposal is clearly the more reasonable of the two.

The foregoing conclusion supports the selection of the Association's salary proposal unless the District's evidence pertaining to its ability to pay is sufficiently persuasive to support the selection of its less comparable offer.

In this regard the record indicates that the District has a number of projected expenditures for which it apparently is having difficulty funding. However, there is no evidence that the District has been forced to make harmful cuts in educational programs which have or are likely to require it to engage in long-term deficit financing or to raise taxes to an inequitable and/or politically unacceptable level. In fact, the record indicates that the District has not had to and does not expect to engage in long-term deficit financing. In addition, although it has been asserted that the District's tax rates are already the highest in the county, there is no evidence in the record indicating how the District's tax rates compare with those in comparable districts.

Absent such evidence, it cannot be concluded that the District has justified the selection of its less comparable salary offer.

The foregoing conclusion is based upon the lack of evidence in the record of the District's alleged inability to pay. Though the District may be experiencing serious budgetary problems - indeed, it would appear that it might be - it is incumbent on a district attempting to justify selection of a proposal which is less comparable than a union's, to prove with demonstrable evidence and not mere arguments that selection of the comparable proposal would cause significant harm to the district. As indicated above, such harm might be reflected in evidence showing cuts in funding of educational programs which are necessary and/or desirable, the District's need to turn to long-term deficit financing or to increase taxes to relatively inequitable and/or politically unacceptable levels.

The District further argues that its proposal should be selected because of the poor economic climate and reduced rate of inflation. While these factors are legitimate for all parties to consider in negotiating and determining current (1982-83) salaries and working conditions, they do not support selection of a non-comparable salary proposal retroactively applied to the 1981-82 school year. This is so because of the retroactive application of the instant award, and in addition, there has been no showing that the District's citizens are experiencing economic conditions which are distinguishable from those experienced by the citizenry in comparable districts.

While it is understandable that the citizenry in the District who have experienced difficulties because of the economic downturn may fail to understand the legitimacy of comparability as a basis for determining public employee salaries, and may even resent the use of such a criterion in proceedings such as this, such public reaction does not justify, in the undersigned's opinion, selection of the less comparable of the two salary proposals submitted herein. Only when such public concern is accompanied by evidence of inability to pay - which is missing herein - could the undersigned justify the possible selection of the less comparable of two offers.

Based upon all of the foregoing, the Association's salary proposal is deemed to be the more reasonable of the two submitted herein.

Insurance and Extra Curricular Curricular Pay

The Association has proposed that the District contribute \$140/month toward

the family rate for health insurance while the District has proposed \$120.

The Association has also proposed that the extra curricular salary schedule be increased by 10%. The District has proposed no change in said schedule.

Association Position

Insurance: The Association's insurance proposal is closest to the average of the Northern Lakes Conference. It is also in line with surrounding districts and other comparable schools in the area.

Extra Curricular Pay:

It is necessary to adjust extra curricular pay each year or the schedule will be out of synchronization with the entire salary schedule and will need a massive amount of money for correction in any future school year. Thus, the extra curricular schedule should be increased at a rate commensurate with the percentage of monies put into the salary schedule.

Discussion

The parties have not provided the undersigned with sufficient data to make reliable comparisons regarding their positions on insurance and extra curricular compensation, nor have they introduced other evidence or persuasive arguments supporting relative merit of their respective positions on these issues. Accordingly, the undersigned can make no determination regarding the relative merit of the parties' positions on these individual issues.

Fair Share

The Association has proposed a fair share provision while the District has proposed none.

Association Position

Phelps is the only district in the Conference which did not have fair share during the 1980-81 school year. Thus, based upon comparability, the Association's offer on this issue should be selected.

Discussion

The only evidence in the record indicates that five comparable districts have some sort of fair share arrangement. There is no evidence that any comparable district has no such arrangement. No arguments have been presented by the District why the Association's fair share proposal is objectionable, nor has the District presented any arguments as to why it should not follow the apparent practice in comparable districts with respect to this issue.

Based on all of the foregoing, the Association's proposal on this issue is deemed to be the more reasonable of the two.

Total Final Offer

Discussion

Based upon all of the foregoing, it would appear that the Association's total final offer is the more comparable and reasonable of the two. In this regard on the most critical issue between the parties, the salary schedule, the Association's proposal is significantly more comparable than is the District's. In addition, on the fair share issue, again comparability clearly supports the Association's position. Because the undersigned has no adequate basis for making a determination on the merits of the two remaining issues in dispute, there is no basis in the record for the undersigned to conclude that the District's final offer should be selected.

It should also be noted that there is not sufficient reliable data in the record for the undersigned to compare the cost of the total package with the total costs of settlement in comparable districts, and accordingly, no comparisons in this regard have been made herein.

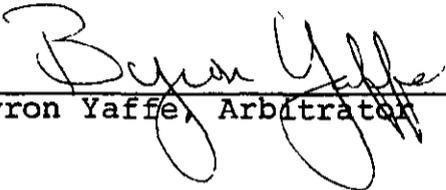
Lastly, for reasons previously discussed herein, the evidence in the record is insufficient to support the District's assertion that it cannot afford the Association's proposal and therefore no evidentiary basis has been provided to justify selection of its less comparable final offer.

For all of the foregoing reasons, the undersigned renders the following

ARBITRATION AWARD

The final offer submitted by the Association herein shall be incorporated into the parties' 1981-82 collective bargaining agreement.

Dated this 19th day of August, 1982 at Madison, Wisconsin.


Byron Yaffe, Arbitrator